

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1546 be amended to read as follows:

- 1 Page 7, between lines 3 and 4, begin a new paragraph and insert:
- 2 "SECTION 4. IC 5-10.2-2-11, AS AMENDED BY P.L.72-2007,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2009]: Sec. 11. (a) Based on the actuarial investigation and
- 5 valuation in section 9 of this chapter, each board shall determine:
- 6 (1) the normal contribution for the employer, which is the amount
- 7 necessary to fund the pension portion of the retirement benefit;
- 8 (2) the rate of normal contribution;
- 9 (3) the unfunded accrued liability of the public employees'
- 10 retirement fund, the pre-1996 account, and the 1996 account,
- 11 which is the excess of total accrued liability over the fund's or
- 12 account's total assets, respectively; and
- 13 (4) the rates of contribution for the state expressed as a proportion
- 14 of compensation of members, which would be necessary to:
- 15 (A) amortize the unfunded accrued liability of the state for
- 16 thirty (30) years or for a shorter time period requested by the
- 17 budget agency or the governor; and
- 18 (B) prevent the state's unfunded accrued liability from
- 19 increasing.
- 20 (b) Based on the information in subsection (a), each board may
- 21 determine, in its sole discretion, contributions and contribution rates for
- 22 individual employers or for a group of employers.
- 23 (c) The board's determinations under subsection (a):
- 24 (1) are subject to section 1.5 of this chapter; and
- 25 (2) ~~for an employer making a contribution to the Indiana state~~
- 26 ~~teachers' retirement fund;~~ may not include an amount for a retired
- 27 ~~member of the Indiana state teachers' retirement fund~~ for whom
- 28 the employer may not make contributions during the member's
- 29 period of reemployment as provided under ~~IC 5-10.2-4-8(c).~~
- 30 **IC 5-10.2-4-8(d).**"

Page 8, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 6. IC 5-10.2-3-2, AS AMENDED BY P.L.72-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this section, "compensation" means:

- (1) the basic salary earned by and paid to the member; plus
- (2) the amount that would have been a part of the basic salary earned and paid except for the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.

(b) Except in cases where:

- (1) the contribution is made on behalf of the member; or
- (2) a retired member of the Indiana state teachers' retirement fund may not make contributions during a period of reemployment as provided under ~~IC 5-10.2-4-8(c)~~; **IC 5-10.2-4-8(d)**;

each member shall, as a condition of employment, contribute to the fund three percent (3%) of ~~his~~ **the member's** compensation.

(c) Except as provided under ~~IC 5-10.2-4-8(c)~~, **IC 5-10.2-4-8(d)**, a member of a fund may make contributions to the member's annuity savings account in addition to the contributions required under subsection (b). The total amount of contributions that may be made to a member's annuity savings account with respect to a payroll period under this subsection may not exceed ten percent (10%) of the member's compensation for that payroll period. The contributions made under this subsection may be picked-up and paid by an employer as provided in subsection (d).

(d) In compliance with rules adopted by each board, an employer, under Section 414(h)(2) of the Internal Revenue Code, may pick-up and pay the contributions under subsection (c), subject to approval of the board and to the board's receipt of a favorable private letter ruling from the Internal Revenue Service. The employer shall reduce the member's compensation by an amount equal to the amount of the member's contributions under subsection (c) that are picked-up by the employer. Each board shall by rule establish the procedural requirements for employers to carry out the pick-up in compliance with Section 414(h)(2) of the Internal Revenue Code.

(e) A member's contributions and interest credits belong to the member and do not belong to the state or political subdivision."

Page 8, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 8. IC 5-10.2-3-6.5, AS ADDED BY P.L.115-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. (a) This section applies:

- (1) after December 31, 2008, to a member of the public employees' retirement fund; **and**
- (2) **after June 30, 2009, to a member of the Indiana state teachers' retirement fund.**

(b) A member who meets all of the following requirements may

elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:

(1) The member has attained vested status in the fund.

(2) The member terminates employment **with the applicable fund after the date specified in subsection (a).**

(3) The member has not performed any service in a position covered by the fund for at least ninety (90) days after the date the member terminates employment.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection (b) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

SECTION 9. IC 5-10.2-3-7.5, AS AMENDED BY P.L.99-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member dies after March 31, 1990;

(2) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

(3) the surviving dependent or surviving spouse qualifies for a

1 survivor benefit under subsection (b) or (c).

2 (b) If a member described in subsection (a) dies with a surviving
3 spouse who was married to the member for at least two (2) years, the
4 surviving spouse is entitled to a survivor benefit equal to the monthly
5 **pension** benefit that would have been payable to the spouse under the
6 joint and survivor option of IC 5-10.2-4-7 upon the member's death
7 following retirement at:

8 (1) fifty (50) years of age; or

9 (2) the actual date of death;

10 whichever is later. However, benefits payable under this subsection are
11 subject to subsections (e) and (g).

12 (c) If a member described in subsection (a) dies without a surviving
13 spouse who was married to the member for at least two (2) years, but
14 with a surviving dependent, the surviving dependent is entitled to a
15 survivor benefit in a monthly amount equal to the actuarial equivalent
16 of the monthly **pension** benefit that would have been payable to the
17 spouse (assuming the spouse would have had the same birth date as the
18 member) under the joint and survivor option of IC 5-10.2-4-7 upon the
19 member's death following retirement at:

20 (1) fifty (50) years of age; or

21 (2) the actual date of death;

22 whichever is later. If there are two (2) or more surviving dependents,
23 the actuarial equivalent of the benefit described in this subsection shall
24 be calculated and, considering the dependents' attained ages, an equal
25 dollar amount shall be determined as the monthly **pension** benefit to be
26 paid to each dependent. Monthly **pension** benefits under this
27 subsection are payable until the date the dependent becomes eighteen
28 (18) years of age or dies, whichever is earlier. However, if a dependent
29 has a permanent and total disability (using disability guidelines
30 established by the Social Security Administration) at the date the
31 dependent reaches eighteen (18) years of age, the monthly **pension**
32 benefit is payable until the date the dependent no longer has a disability
33 (using disability guidelines established by the Social Security
34 Administration) or dies, whichever is earlier. Benefits payable under
35 this subsection are subject to subsections (e) and (g).

36 (d) **This subsection applies if a member did not designate a**
37 **beneficiary or the designated beneficiary does not survive the**
38 **member.** Except as provided in subsections (e) and (h), the surviving
39 spouse or surviving dependent of a member who is entitled to a
40 survivor benefit under subsection (b) or (c) or section 7.6 of this
41 chapter may elect to receive a lump sum payment of the total amount
42 credited to the member in the member's annuity savings account or an
43 amount equal to the member's federal income tax basis in the member's
44 annuity savings account as of December 31, 1986. A surviving spouse
45 or surviving dependent who makes such an election is not entitled to an
46 annuity as part of the survivor benefit under subsection (b) or (c) or
47 section 7.6 of this chapter to the extent of the lump sum payment.

(e) If a member described in subsection (a) or section 7.6(a) of this chapter is survived by a designated beneficiary, who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection

(e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 10. IC 5-10.2-4-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.2. ~~The public employees' retirement~~ (a) Each fund shall adopt a policy that

~~(1) promotes~~ **requires** direct deposit ~~or another method approved by the board~~ as the preferred way for members and beneficiaries to receive monthly benefits. ~~and~~

~~(2) strongly encourages members and beneficiaries who apply for benefits to receive their monthly benefits by direct deposit.~~

(b) A member or beneficiary who does not wish to have payments to the person deposited by direct deposit or another method approved by the board under subsection (a) may request the board or a designee of the board to grant a waiver of the requirement of direct deposit or another method approved by the board. The member or beneficiary must:

(1) state the reason to the board for requesting the waiver; and

(2) sign a waiver form.

(c) The board or a designee of the board shall grant the member's or beneficiary's request for a waiver, approval of which shall not be unreasonably denied, if any of the following apply:

(1) The member or beneficiary currently does not have a savings or checking account.

(2) The member or beneficiary is unable to establish a savings or checking account within the geographic area of the home of the member or beneficiary without payment of a service fee. In support of this reason, the member or beneficiary must submit a written statement of the inability to establish the account without the payment of a fee with the waiver request.

(3) The home of the member or beneficiary is too remote to have access to a financial institution where direct deposit or another method approved by the board may be made.

(4) The financial institution of the member or beneficiary is unable to:

(A) accept direct deposit or another method approved by the board; or

(B) process electronic withdrawal.

The member or beneficiary must submit with the waiver a written statement from the financial institution of the member or beneficiary that the financial institution is unable to accept direct deposit or another method approved by the board or process electronic withdrawal.

(5) The board determines that the facts of the particular case

warrant a waiver of the requirement of direct deposit or another method approved by the board.

(d) The policy of the board must provide that a member or beneficiary in pay status as of July 1, 2009, receiving monthly benefits in a manner other than direct deposit or another method approved by the board shall not have the monthly benefits stopped for receiving monthly benefits in a manner other than direct deposit or another method approved by the board.

SECTION 11. IC 5-10.2-4-1.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.4. (a) This section applies to a member or a beneficiary of the ~~public employees'~~ retirement fund who receives a monthly benefit by direct deposit.

(b) The fund shall furnish to the member or beneficiary:

(1) before each change in the amount of the member's or beneficiary's benefit; or

(2) once every twelve (12) months, if the member's or beneficiary's benefit amount does not change;

a written notice showing the member's or beneficiary's benefit amount, including any cost of living increase or other adjustment to the benefit amount, and a summary of the member's or beneficiary's benefit payment history since the member's or beneficiary's last written notice.

SECTION 12. IC 5-10.2-4-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) A fund may calculate and pay an estimated retirement benefit of the pension portion to a member if:

(1) the member has applied for a retirement benefit and has chosen a retirement date on which the retirement benefit is to begin;

(2) the member's membership records are incomplete or have not been certified; and

(3) the member's membership records that have been submitted to the fund establish that the member is entitled to a retirement benefit.

(b) ~~After June 30, 2009, if a fund may calculate~~ **calculates and pays** an estimated benefit under this section, ~~based on the estimated benefit must be at least~~ **eighty-five percent (85%)** of the pension portion of the benefit determined under the fund's records on service and compensation information.

(c) If an estimated benefit is paid to a member under this section, the fund shall, after all membership records have been submitted to the fund and certified, determine the actual retirement benefit to which the member is entitled. After determining the actual retirement benefit to which the member is entitled, the fund shall temporarily adjust the actual retirement benefit that is paid to the member to reconcile any underpayment or overpayment of benefits to the member that resulted from the payment of estimated benefits. The fund may make the temporary adjustment to the member's actual retirement benefit over a

reasonable time, as determined by the board."

Page 8, line 34, after "IC 5-10.2-3-1(i)." insert "**Regardless of a member's election under this section, contributions totaling not more than one thousand dollars (\$1,000) that are posted to a member's annuity savings account after the final date on which the member's retirement benefit is processed may be distributed to the member as a lump sum payment.**".

Page 10, between lines 3 and 4, begin a new paragraph and insert:
"SECTION 14. IC 5-10.2-4-7, AS AMENDED BY P.L.115-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, or to a member of the public employees' retirement fund after June 30, 2008. If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

(1) the member's retirement option under subsection (b);

(2) the selection of a lump sum payment under section 2 of this chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

1 **(f) Whenever the amount of a monthly retirement benefit to be**
 2 **paid to a member is not more than five dollars (\$5), each board**
 3 **may adopt a policy to permit annual payment of the member's**
 4 **retirement benefit.**

5 SECTION 15. IC 5-10.2-4-8, AS AMENDED BY P.L.130-2008,
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2009]: Sec. 8. (a) **Subject to subsection (f)**, if a member who
 8 is receiving retirement benefits becomes reemployed in a position
 9 covered by this article more than thirty (30) days after the member's
 10 retirement, the member's retirement benefit payments continue. Except
 11 for a member of the Indiana state teachers' retirement fund who is
 12 reemployed more than thirty (30) days after the member's retirement in
 13 a position covered by the Indiana state teachers' retirement fund, the
 14 member shall begin making contributions as required in IC 5-10.2-3-2,
 15 and the member's employer shall make contributions throughout the
 16 member's period of reemployment.

17 (b) If a member who is receiving retirement benefits is reemployed
 18 in a position covered by this article not more than thirty (30) days after
 19 the member's retirement, the member's retirement benefits shall stop,
 20 the member shall begin making contributions as required by
 21 IC 5-10.2-3-2, and employer contributions shall be made throughout
 22 the period of reemployment.

23 (c) This subsection does not apply to a member of the Indiana state
 24 teachers' retirement fund who is reemployed more than thirty (30) days
 25 after the member's retirement in a position covered by the Indiana state
 26 teachers' retirement fund. If a retired member is reemployed in a
 27 position covered by this article, section 10 of this chapter applies to the
 28 member upon the member's retirement from reemployment.

29 (d) **Subject to subsection (f)**, the following apply to a member of
 30 the Indiana state teachers' retirement fund who is reemployed more
 31 than thirty (30) days after the member's retirement in a position covered
 32 by the Indiana state teachers' retirement fund:

33 (1) The member's retirement benefit payments continue during the
 34 member's period of reemployment without regard to the amount
 35 of the member's earnings from the covered position.

36 (2) The member may not make contributions under IC 5-10.2-3-2
 37 or IC 5-10.4-4-11 during the member's period of reemployment.

38 (3) The member's employer may not make contributions under
 39 IC 5-10.2-2-11 or IC 5-10.4-4-11 for or on behalf of the member
 40 during the member's period of reemployment.

41 (4) The member does not earn creditable service under
 42 IC 5-10.2-3-1 for the member's period of reemployment.

43 (5) The member is not entitled to an additional benefit under
 44 sections 9 and 10 of this chapter for the member's period of
 45 reemployment.

46 (e) The thirty (30) day period provided for in this section may be
 47 implemented unless the board of trustees of the fund receives a

determination from the Internal Revenue Service prohibiting the implementation.

(f) After July 31, 2009, if, on or before the date the member files an application for retirement benefits under this article, a member has a formal or informal agreement with an employer covered by this article to become reemployed in a position covered by this article after the member's retirement, regardless of the time frame between the member's retirement and the member's reemployment, the member's application for retirement benefits is void, and the following apply to the member's continued employment:

(1) If a member received a retirement benefit:

(A) the member's retirement benefit shall stop; and

(B) the member shall repay the amount of the retirement benefit received.

(2) The member shall make contributions as required by IC 5-10.2-3-2 throughout the period of the member's continued employment.

(3) Employer contributions shall be made throughout the period of the member's continued employment.

(4) The member shall earn creditable service under IC 5-10.2-3-1 for the member's continued employment.

(5) When the period of the member's continued employment terminates, the member may again file an application for retirement benefits under this chapter.

SECTION 16. IC 5-10.3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The director is the executive officer in charge of the administration of the fund's detailed affairs.

(b) The director shall:

(1) maintain a record of the board's proceedings;

(2) be responsible for the safekeeping of the books and records of the funds administered by the board;

(~~1~~) (3) receipt for payments made to the fund funds administered by the board and deposit them these payments with the treasurer of state or a custodian for the fund's account;

(~~2~~) (4) sign vouchers for the payment of money from the fund funds administered by the board as authorized by the board;

(~~3~~) perform other duties assigned by the board; and

(~~4~~) (5) execute a corporate surety bond in an amount specified by the board, the premium on the bond to be paid by the board; and
(6) perform other duties assigned by the board.

SECTION 17. IC 5-10.3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Securities shall be held for the fund by banks or trust companies under a custodial agreement. Income, interest, proceeds of sale, materials, redemptions, and all other receipts from securities and other investments which the

board retains for the cash working balance shall be deposited ~~with the treasurer of state~~ **as authorized by the board.**

(b) The board may contract with investment counsel, trust companies, or banks to assist the board in its investment program.

SECTION 18. IC 5-10.3-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. ~~Collection of Payments.~~ (a) If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be:

(1) withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund; or

(2) recovered in a suit in the circuit or superior court of the county in which the political subdivision is located. ~~which~~ **The** suit shall be an action by the state on the relation of the board, prosecuted by the attorney general.

(b) If:

(1) **service credit is verified for a member who has filed an application for retirement benefits; and**

(2) **the member's employer at the time the service credit was earned has not made contributions for or on behalf of the member for the service credit;**

liability for the unfunded service credit shall be charged against the employer's account and collected by the fund as provided in subsection (a). Processing of a member's application for retirement benefits may not be delayed by an employer's failure to make contributions for the service credit earned by the member while the member was employed by the employer.

(c) If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5, the auditor of state shall:

(1) withhold the penalty described in IC 5-10.3-7-12.5 from money payable to the employer or the political subdivision; and ~~shall~~

(2) transfer the penalty to the fund."

Page 10, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 20. IC 5-10.3-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. ~~Payment of the Retirement Benefit.~~ **Except as provided under IC 5-10.2-4-7(f),** the retirement benefit is payable in equal monthly installments. The benefit may not be increased, decreased, revoked or repealed except for error or by action of the general assembly.

SECTION 21. IC 5-10.4-3-9, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board is responsible for the fund's property. The board may take and hold any property given outright or on condition to the fund and shall perform the conditions accepted. Unless restricted by a condition, the board may transfer the property when necessary for the fund's benefit.

(b) The board shall receipt:

(1) property belonging to or coming into the fund and shall judiciously invest the property; and

(2) money coming into the fund and, except as specified in sections 13 and 14 of this chapter, shall deposit the money with the state treasurer in the manner required of other state funds by ~~IC 5-13~~ as authorized by the board.

~~(c) The board shall make quarterly reports to the auditor of state as required by law for the transference of the fund to the auditor of state's books.~~

~~(d)~~ (c) The board shall direct the fund's disbursements on itemized vouchers to the auditor of state approved by the president of the board and the director or, in the absence or incapacity of both officers, by another trustee directed by order of the board. The auditor of state then shall issue a warrant on the treasurer of state.

SECTION 22. IC 5-10.4-3-14, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. All income and other receipts from securities may be:

(1) collected by the custodian bank or safekeeping bank approved for that purpose by the board and deposited in the custodial account or a checking account of the board;

(2) reinvested from the custodial account or checking account when the board determines that the receipts may be safely invested; or

(3) withdrawn by the board for the immediate needs of the fund from the checking account or custodial account. and then deposited with the treasurer of state, as required for other money coming into the fund.

SECTION 23. IC 5-10.4-4-8, AS AMENDED BY P.L.201-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This subsection applies to a member who retires before July 1, 1980. A member who had completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if before or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter.

(b) This subsection applies to a member who retires after June 30, 1980. A member who completed four (4) years of approved college teacher education before voluntary or involuntary induction into military service is entitled to credit for the member's active military

1 service as if the member had begun teaching before the induction. A
 2 member who serves in military service is considered a teacher and is
 3 entitled to the benefits of the fund if the following conditions are met:

- 4 (1) The member has an honorable discharge.
- 5 (2) Except as provided in subsection ~~(e)~~, (g), the member returns
 6 to active teaching service not later than twenty-four (24) months
 7 after the completion of active military service.
- 8 (3) The member has at least ten (10) years of in-state service
 9 credit.

10 The time served by a member in military service for the duration of the
 11 hostilities or for the length of active service in the hostilities and the
 12 necessary demobilization time after the hostilities is not subject to the
 13 one-seventh rule set forth in section 7 of this chapter. However, not
 14 more than six (6) years of military service credit may be granted under
 15 this subsection.

16 (c) This subsection applies to a member who retires after May 1,
 17 1989. A member who had begun but had not completed four (4) years
 18 of approved college teacher education before voluntary or involuntary
 19 induction into the military services is entitled to service credit in an
 20 amount equal to the duration of the member's active military service if
 21 the following conditions are met:

- 22 (1) The member has an honorable discharge.
- 23 (2) Except as provided in subsection ~~(e)~~, (g), the member returns
 24 to a four (4) year approved college teacher training program not
 25 later than twenty-four (24) months after the completion of active
 26 military service and subsequently completes that program.
- 27 (3) The member has at least ten (10) years of in-state service
 28 credit.

29 The time served by a member in active military service for the length
 30 of active service in the hostilities and the necessary demobilization is
 31 not subject to the one-seventh rule set forth in section 7 of this chapter.
 32 However, not more than six (6) years of military service credit may be
 33 granted under this subsection.

34 (d) This subsection applies to a member who retires after May 1,
 35 1991, and who is employed at a state educational institution. A member
 36 who had begun but had not completed baccalaureate or
 37 post-baccalaureate education before voluntary or involuntary induction
 38 into military service is entitled to the member's active military service
 39 credit for the member's active military service in an amount equal to
 40 the duration of the member's military service if the following
 41 conditions are met:

- 42 (1) The member received an honorable discharge.
- 43 (2) Except as provided in subsection ~~(e)~~, (g), the member returns
 44 to baccalaureate or post-baccalaureate education not later than
 45 twenty-four (24) months after completion of active military
 46 service and subsequently completes that education.
- 47 (3) The member has at least ten (10) years of in-state service

1 credit.

2 The time served by a member in active military service for the length
3 of active service in the hostilities and the necessary demobilization is
4 not subject to the one-seventh rule set forth in section 7 of this chapter.
5 However, not more than six (6) years of military service credit may be
6 granted under this subsection.

7 **(e) For purposes of this section, a member returns to active**
8 **teaching service on the earlier of:**

9 **(1) the date on which the member signs a teacher's contract;**
10 **or**

11 **(2) the date on which the member is first employed in a**
12 **position covered by this article.**

13 **(f) For purposes of this section, a member returns to:**

14 **(1) a teacher training program; or**

15 **(2) baccalaureate or post-baccalaureate education;**

16 **on the date the member registers or enrolls for classes that the**
17 **member attends.**

18 ~~(e)~~ **(g)** The board shall extend the twenty-four (24) month deadline
19 contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines
20 that an illness, an injury, or a disability related to the member's military
21 service prevented the member from returning to active teaching service
22 or to a teacher education program not later than twenty-four (24)
23 months after the member's discharge from military service. However,
24 the board may not extend the deadline beyond forty-eight (48) months
25 after the member's discharge.

26 ~~(f)~~ **(h)** If a member retires and the board subsequently determines
27 that the member is entitled to additional service credit due to the
28 extension of a deadline under subsection ~~(e)~~; **(g)**, the board shall
29 recompute the member's benefit. However, the additional service credit
30 may be used only in the computation of benefits to be paid after the
31 date of the board's determination, and the member is not entitled to a
32 recomputation of benefits received before the date of the board's
33 determination.

34 ~~(g)~~ **(i)** Notwithstanding any provision of this section, a member is
35 entitled to military service credit and benefits in the amount and to the
36 extent required by the federal Uniformed Services Employment and
37 Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later
38 amendments.

39 ~~(h)~~ **(j)** Subject to this section, an active member may purchase not
40 more than two (2) years of service credit for the member's service on
41 active duty in the armed services if the member meets the following
42 conditions:

43 **(1) The member has at least one (1) year of credited service in the**
44 **fund.**

45 **(2) The member serves on active duty in the armed services of the**
46 **United States for at least six (6) months.**

47 **(3) The member receives an honorable discharge from the armed**

1 services.

2 (4) Before the member retires, the member makes contributions
3 to the fund as follows:

4 (A) Contributions that are equal to the product of:

5 (i) the member's salary at the time the member actually
6 makes a contribution for the service credit;

7 (ii) a rate, determined by the actuary of the fund, that is
8 based on the age of the member at the time the member
9 actually makes a contribution for service credit and
10 computed to result in a contribution amount that
11 approximates the actuarial present value of the benefit
12 attributable to the service credit purchased; and

13 (iii) the number of years of service credit the member
14 intends to purchase.

15 (B) Contributions for any accrued interest, at a rate determined
16 by the actuary of the fund, for the period from the member's
17 initial membership in the fund to the date payment is made by
18 the member.

19 However, a member is entitled to purchase service credit under this
20 subsection only to the extent that service credit is not granted for that
21 time under another provision of this section. At least ten (10) years of
22 service in Indiana is required before a member may receive a benefit
23 based on service credits purchased under this section. A member who
24 terminates employment before satisfying the eligibility requirements
25 necessary to receive a monthly allowance or receives a monthly
26 allowance for the same service from another tax supported public
27 employee retirement plan other than under the federal Social Security
28 Act may withdraw the purchase amount plus accumulated interest after
29 submitting a properly completed application for a refund to the fund.

30 ~~(i)~~ **(k)** The following apply to the purchase of service credit under
31 subsection ~~(h)~~ **(j)**:

32 (1) The board may allow a member to make periodic payments of
33 the contributions required for the purchase of the service credit.
34 The board shall determine the length of the period during which
35 the payments must be made.

36 (2) The board may deny an application for the purchase of service
37 credit if the purchase would exceed the limitations under Section
38 415 of the Internal Revenue Code.

39 (3) A member may not claim the service credit for purposes of
40 determining eligibility or computing benefits unless the member
41 has made all payments required for the purchase of the service
42 credit.

43 ~~(j)~~ **(l)** This subsection applies to a member who retires after June 30,
44 2006. A member may not receive credit under this section for service
45 for which the member receives service credit under the terms of a
46 military or another governmental retirement plan.

47 SECTION 24. IC 5-10.4-4-10, AS ADDED BY P.L.2-2006,

1 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2009]: Sec. 10. (a) The director shall obtain a designation of
3 beneficiary as soon as possible from each member.

4 **(b) Notwithstanding a contrary collateral agreement, court**
5 **order, process, attachment, or levy, the right to receive a death**
6 **benefit under IC 5-10.2 or IC 5-10.4 vests with the designated**
7 **beneficiary on file with the fund at the time of the member's death.**
8 **The fund shall distribute the death benefit to the designated**
9 **beneficiary or the designated beneficiary's estate in accordance**
10 **with IC 5-10.2 and IC 5-10.4.**

11 SECTION 25. IC 5-10.4-5-9, AS ADDED BY P.L.2-2006,
12 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2009]: Sec. 9. (a) The fund shall make a member's first
14 pension benefit payment not more than ninety (90) days after the date
15 the member completes and files an application for retirement benefits.

16 (b) After the first pension benefit payment **and except as provided**
17 **under IC 5-10.2-4-7(f)**, a person entitled to benefits shall receive a
18 retirement benefit payment by the tenth day of each month.

19 SECTION 26. IC 5-10.4-5-13, AS AMENDED BY P.L.76-2008,
20 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2009]: Sec. 13. (a) IC 5-10.2-4-8 ~~IC 5-10.2-4-9~~; and
22 ~~IC 5-10.2-4-10~~ **apply** **applies** to the reemployment of a retired member.

23 (b) This subsection does not apply to a member who is reemployed
24 more than thirty (30) days after the member's retirement in a position
25 covered by the fund. For a retired member who withdraws from
26 retirement status, resumes teaching, and again retires, the board shall
27 pay the member, after the member's second or subsequent retirement,
28 a monthly retirement benefit at least equal to the highest amount the
29 retired member has received as a retirement benefit.

30 SECTION 27. IC 5-10.4-6-2, AS ADDED BY P.L.2-2006,
31 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2009]: Sec. 2. (a) After July 9, 1949, a member receiving a
33 retirement benefit under Acts 1915, c.182, or any statute amendatory
34 of or supplemental to it enacted before January 1, 1949, is eligible,
35 subject to Acts 1949, c.130, s.2(j), to receive a retirement benefit
36 approximately equal to the state's proportionate share of a retirement
37 benefit provided by Acts 1949, c.130 for up to thirty (30) years of
38 service. These members shall make written application for these
39 benefits to the board at any time. Applications must be based on the
40 service record established in the office of the fund on April 1, 1949.
41 **Except as provided by IC 5-10.2-4-7(f)**, this retirement benefit must
42 begin on the tenth of the month following acknowledgment of the
43 application.

44 (b) The board shall establish, with the advice of the fund's actuary,
45 a simplified table for computing the increases under this section for the
46 years of service. The board may provide by resolution for participation
47 by the members receiving benefits under this section in the additional

1 annuity fund.

2 (c) Within a reasonable time, the board shall issue to each member
3 of the fund a service certificate that includes the following:

4 (1) The member's name.

5 (2) The member's last known address.

6 (3) The member's account number.

7 (4) The law under which the member is participating in the fund.

8 (5) The contribution due from the member.

9 (6) A certification of the total years of creditable service that the
10 member has as of a date fixed by the board.

11 (d) The service certificate described in subsection (c) is final and
12 conclusive regarding service in the fund. However, a member may, not
13 later than one (1) year from the issuance or notification of the
14 certificate, request that the board modify the member's service
15 certificate."

16 Page 12, between lines 11 and 12, begin a new paragraph and insert:

17 "SECTION 30. IC 5-10.4-7-10, AS ADDED BY P.L.2-2006,
18 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2009]: Sec. 10. **(a) Except as provided in subsection (b),** the
20 board shall maintain separate **reserve** accounts within the 1996
21 account for each school corporation.

22 **(b) If the board sets a group employer rate under**
23 **IC 5-10.2-2-11(b), the board shall maintain separate reserve**
24 **accounts within the 1996 account for each employer group.**

25 (c) Credits and charges to these accounts must be made as
26 prescribed in IC 5-10.2-2.

27 SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE
28 JULY 1, 2009]: IC 5-10.3-4-1; IC 5-10.3-4-2; IC 5-10.3-9-5."

29 Renumber all SECTIONS consecutively.

(Reference is to EHB 1546 as printed April 8, 2009.)

Senator KENLEY